

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In Re: Methyl Tertiary Butyl Ether ("MTBE")  
Products Liability Litigation

**This Document Relates To:**

*Commonwealth of Puerto Rico, et al. v.  
Shell Oil Co., et al.*

**ORDER**

**Master File No. 1:00 - 1898  
MDL 1358 (SAS)  
M21-88**

**No. 07 Civ. 10470 (SAS)**

**SHIRA A. SCHEINDLIN, U.S.D.J.:**

**(PROPOSED) JOINT SUGGESTION TO REMAND**

On October 31, 2007, the Judicial Panel on Multidistrict Litigation transferred the case captioned *Commonwealth of Puerto Rico, et al. v. Shell Oil Co., et al.*, Case No. 07-cv-10470 (S.D.N.Y.); 07-cv-1505 (D.P.R.) (the "Action"), to this Court for coordinated and consolidated pretrial proceedings in MDL No. 1358. The Action involves alleged contamination of groundwater with methyl tertiary-butyl ether ("MTBE") at hundreds of sites in the Commonwealth of Puerto Rico.

This Court issued several Case Management Orders ("CMOs") and orders<sup>1</sup> that set forth a procedure for the parties to select a subset of those sites (the "Trial Sites") on which fact and expert discovery would be completed so that the Trial Sites could be remanded to the District of Puerto Rico for all further proceedings, including additional pretrial, trial and post-trial proceedings.

During discovery, a subset of the initially selected Trial Sites was dismissed without prejudice pursuant to CMO 109, and four Trial Sites were dismissed with prejudice by

<sup>1</sup> CMO 65, dated April 21, 2010; CMO 79, dated December 1, 2010; CMO 110, dated March 21, 2013; and an unnumbered CMO, dated September 30, 2013.

stipulation of the parties.<sup>2</sup> Following these various stipulations, motion practice, and Court Orders, the remaining Phase I Trial Sites are:

- 86-0948 / Shell #003042 / Rd. #487 Villa Del Rey / Caguas
- 86-1075 / Esso CO-364 / Villa St. and the corner of Cementerio St. / Ponce
- 86-1232 / Esso CO-242 / Calle Antonio R. Barcelo #1 / Cayey
- 86-1825 / Texaco #800 / Carr. #133, Km. 0.8 / Ponce
- 91-0067 / Total 1012 / Central Ave. #263 / San Juan

CMO 117, dated September 15, 2014 (and attached), provides the causes of action Plaintiffs alleged at each Phase I Trial Site and the Defendants against which such causes of action were alleged.

The Court hereby finds that discovery on the Phase I Trial Sites has been substantially completed. Furthermore, the Court has issued its rulings with respect to all summary judgment motions filed concerning the Phase I Trial Sites. Accordingly, the Court hereby finds that the coordinated and consolidated pretrial proceedings have run their course with respect to claims related to the Phase I Trial Sites.

The Court therefore suggests that the Panel remand to the United States District Court for the District of Puerto Rico all Phase I Trial Sites identified above for all further proceedings, including additional pretrial, trial and post-trial proceedings. Such proceedings shall be consistent with CMO 117<sup>3</sup> and with the Court's above-referenced summary judgment rulings.

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<sup>2</sup> The Trial Sites dismissed with prejudice by stipulation are: Maysonet Service Station (98-0080), Manati Municipal Garage (89-0156), Guayama Water Treatment Plant (E12004W), and the Chevron Phillips Chemical Puerto Rico Core LLC petrochemical facility in Guayama. *See Stipulated Order of Dismissal* (Sept. 24, 2014), Dkt. #462; *Stipulated Order of Dismissal* (July 16, 2014), Dkt. #434.

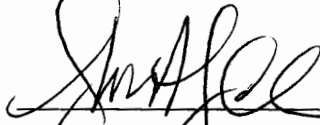
<sup>3</sup> Due to settlements, stipulations and rulings that occurred after entry of CMO 117, the only defendants whose liability, if any, will be determined at, and that are required to participate in,

As of this time this Court will retain jurisdiction over the remainder of the Action in order to conduct coordinated and consolidated pretrial proceedings.

Dated: New York, New York

MAR. 7, 2016

SO ORDERED:

  
SHIRA A. SCHEINDLIN, U.S.D.J.

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the remanded Phase I proceedings are: Shell Company Puerto Rico Ltd., n/k/a Sol Puerto Rico Limited ("Sol"); Shell Western Supply & Trading, Ltd.; Chevron Phillips Chemical Puerto Rico Core LLC; ConocoPhillips Company; Esso Standard Oil Co. (Puerto Rico); Total Petroleum Puerto Rico Corp. and Chevron Puerto Rico, LLC, f/k/a Texaco Puerto Rico Inc. With respect to those defendants as to which all Trial Site claims have been dismissed as a result of this Court's summary judgment orders, such defendants shall not be required to participate in the remanded proceeding unless and until such time as those orders are reversed, vacated, or otherwise modified so as to in any way reinstate such defendant(s). To avoid any uncertainty, such dismissed defendant may participate in any appellate proceedings with respect to those orders.